

ORDER

In the Planning and Environment Court
Held at: Brisbane

Appeal No: 4492 of 2000

Between: **KEITH WILLIAMS**

Appellant

and: **CARDWELL SHIRE COUNCIL**

Respondent

Before: His Honour Judge Quirk

Date of Hearing: 6 December 2000

Date of Order: 6 December 2000

THE COURT IS SATISFIED that there has been compliance with the provisions of the *Integrated Planning Act 1997* concerning the giving of notice of the appeal.

IT IS ORDERED THAT

1. Pursuant to section 4.1.47 (2) of the *Integrated Planning Act 1997* the development may start before the appeal is decided;
2. The issues in the appeal are limited to the requirement for and/or extent of sewerage headworks contributions required under condition 22 of the Decision Notice;
3. The conditions upon which the development may start are those contained in Schedule "A" to this order excluding condition 22 which remains in dispute.

Filed on:

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REGISTRAR

Order
Filed on behalf of the Appellant
PEC-8

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SCHEDULE "A"

CONDITIONS

1. That the development be undertaken in accordance with the application, documentation, plans numbered 41073/05 (prepared for Cardwell Properties Pty Ltd by Rowlands Surveys Pty Ltd) as accepted on 11th September 2000, all relating to the Development Application No 186/00, excepting where varied by the following conditions.
2. One (1) Permanent Survey Mark is to be installed at locations approved by the Director, Engineering Services, and in accordance with The Survey Co-Ordination Act of 1952-1989. Permanent Mark Sketch Plans provided to The Department of Natural Resources for such Permanent Survey Marks shall be complete with vertical control data for Australian Height Datum and horizontal control data for Australian Map Grid.
3. Council approval is based upon it being able to be satisfied as to the provision of appropriate water supply and sewerage services. The condition relating to these issues are inextricably part of the decision to approve. These conditions are non-severable conditions for the purpose of this approval.
4. The applicant will at all times comply with its obligations under a Deed of Agreement entered into between Cardwell Properties Pty Ltd, the Cardwell Shire Council, the State of Queensland and the Commonwealth of Australia dated August 22, 1996 (called "the Deed") subject to any amendments to the Deed and will construct the subdivision in accordance with the obligations of Cardwell Properties Pty Ltd under the Deed.
5. All of the subdivisional works, drawings and specifications which are:-
 - (a) described in the application for subdivision as amended by these conditions of approval; and
 - (b) otherwise set out in these conditions of approval, will be detailed in engineering drawings and specifications which will be submitted to Council for its approval within two years from the date of approval of this application.
6. Application will be made to the Council for approval of the engineering drawings and specifications referred to in condition 4 above prior to the commencement of the subdivisional works.
7. The reconfiguration of a lot proposal authorised by this development permit must be completed and the Plan of Subdivision lodged with the Council for approval within 24 months of the date of this Decision Notification [or if the reconfiguration requires operational works – within 24 months after the development permit for operational works takes effect, in accordance with Section 3.7.2 of the Integrated Planning Act 1997], or this approval lapses and ceases to have any effect as soon as the foregoing expires.
8. Prior to the submission of the plan of survey, the applicant must provide documentary evidence to the Council that, in respect of the land the subject of the plan of survey, any rates, charges or expenses levied by the Council over the land under any Act are not outstanding at the time of submission of that plan.
9. All provisions of the Council's Local Laws regarding the subdivision of land must be strictly complied with.

10. The applicant is to furnish the Council with a certificate from a licensed surveyor that the works required to be undertaken by the applicant under these conditions have been completed as at the date the plan of survey is lodged with the Council for signing.
11. The applicant is to furnish the Council with a certificate from a licensed surveyor that as of the date on which the plan of survey is lodged with the Council for signing, existing Permanent Survey Marks have been properly reinstated wherever necessary and that all Permanent Survey Marks are, at that time, in their correct position as shown on the plan of survey.
12. The applicant is to produce documentary evidence that an agreement has been entered into with Ergon Energy for underground electricity services associates with the subdivision (including street lighting sufficient to illuminate the road frontage of each new allotment) before the plan of survey will be sealed by Council.
13. Each of the allotments created by the subdivision must be serviced by a dedicated public road; or by a private road which is subject to a registered easement enabling:-
 - (i) permanent and unimpeded rights of access to each allotment by the owners of the individual allotments and their invitees; and
 - (ii) permanent and unimpeded rights of access to all water, sewerage, electricity, telephone and other services and utilities by the service providers for installation, maintenance, repair or any other reasonable purposes.
14. Internal roads shall be constructed to Urban standard and shall include kerbing and channelling, pavement, bitumen widening and stormwater drainage, as necessary.
15. As water supply external works, unless the developer has paid to Council the sums referred to below, the developer shall contribute an amount of \$220,000 towards the cost of a water pipeline to serve the total requirements of both Port Hinchinbrook and Cardwell Boat Haven development sites on the same basis as other developments within the Shire. The proposed payment timetable being:-
 - (i) \$110,000 within seven (7) days of the pipe being on-site and commencement of installation.
 - (ii) A further \$50,000 within seven (7) days of Council providing a letter to advise it estimates the installation is 50% complete.
 - (iii) A further \$60,000 within seven (7) days of the pipeline becoming operational.
16. Provision of Water Supply reticulation including all necessary hydrants and valves, meters and connection to each new lot. These are to be designed and constructed in accordance with Council's Guidelines for Subdividers.
17. The reticulated water supply servicing the subdivision will be connected to Council's water supply scheme at a point approved by the Director, Engineering Services.
18. The applicant will contribute towards the cost of water headworks at the rate prevailing at the time when payment is made and the contribution will be of one unit for each new allotment created by the subdivision in accordance with Local Planning Policy no 96/PP(1).

19. Provision of sewerage reticulation to the proposed new lots, including any necessary manholes, pump wells etc to allow connection to future sewerage reticulation and treatment for the overall development site and the Township of Cardwell.
20. The reticulated sewerage system will be subject to design plans and specifications which must be prepared by a registered professional engineer and approved by the Council.
21. The reticulated sewerage system will be designed in a manner which will allow the reticulated sewerage system to be connected to a package treatment plant or other sewerage treatment plant required for the treatment of sewerage generated by the overall development site and the township of Cardwell.
22. The applicant will contribute towards the cost of sewerage headworks at the rate prevailing at the time when payment is made with a contribution of one unit for each new allotment created, in accordance with Local Planning Policy No. 96/PP (1).
23. The applicant will transfer to the Council free of cost and compensation such drainage easements as may be required, including any necessary provision for overland flow, to the requirement and satisfaction of the Director, Engineering Services.
24. The applicant will satisfy the Director, Engineering Services that a lawful point of discharge can be obtained for the stormwater discharge.
25. All allotments will be filled and drained to the requirements and satisfaction of the Director, Engineering Services.
26. Council will require that in any building development on the new allotments, the building foundations are designed by a Professional Structural Engineer, and will be subject to soil test investigations on actual conditions at the building location.
27. The development of the land is to be generally in accordance with the plan titled "Port Hinchinbrook Masterplan – Issue H – June 2000", so far as it relates to land uses in precincts. Any variations to the land uses in precincts will be subject to approval by the Director, Engineering Services.